

Application No. 10/664,620
Amendment Dated April 24, 2006
Reply to Office Action of January 19, 2006

REMARKS/ARGUMENTS

By this Amendment, Claim 40 has been canceled, Claims 39, 41, 42 and 45 have been amended and Claims 1 - 38 and 60 - 67 have been withdrawn from consideration pursuant to a restriction requirement. Applicant hereby affirms the prior election of Claims 39 - 59, reserving their rights under 35 U.S.C. § 121 to file a divisional application for the non-elected (withdrawn) claims.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 39 - 42 and 51 were rejected under the judicially created doctrine of obviousness type double patenting over Claim 10 - 14 of U.S. Patent No. 6,953,069. Accompanying this Amendment is a Terminal Disclaimer which should obviate the rejection of the claims on the basis of obviousness type double patenting.

Claims 40 - 42, 47 - 49 and 56 were also rejected under 35 U.S.C. § 112, second paragraph as being indefinite. It is respectfully submitted that based on the amendment to the claims as presented herein, wherein Claim 40 has been canceled and other of the claims amended, the rejection of the claims on the basis of indefiniteness is no longer applicable.

Claims 39 - 41, 50 and 51 were rejected under 35 U.S.C. § 102 as being anticipated by Doyen et al., Claims 39 - 41, 50, 57 and 58 were rejected under 35 U.S.C. § 102 as being anticipated by Frisk, Claims 39 - 41, 50, 57 and 59 were rejected under 35 U.S.C. § 102 as being anticipated by Erickson et al., Claims 39 - 41, 43, 44, 50 and 57 were rejected under 35 U.S.C. § 102 as being anticipated by Gautier, and Claims 39 - 41, 43, 44, 50, 51 and 57 were rejected under 35 U.S.C. §

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102 as being anticipated by Kugler. Claims 42 and 55 were rejected under 35 U.S.C. § 103 as being obvious over Doyen et al., Frisk or Erickson et al. in view of Bustin.

Claims 45 - 49, 52 and 56 have been objected to but indicated as being allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claim. Claim 45 has been rewritten into such independent form and thus it is respectfully submitted that Claim 45 and Claims 46 - 49, 52, 54 and 56, which depend directly or indirectly from Claim 45 are all allowable. Moreover, Claim 56 has been amended to change the word reinforced to "corrugated" since it depends from Claim 49 which uses the word "corrugated."

The rejection of the claims on the basis of the prior art as set forth above is respectfully traversed in view of the amendment to the claims as presented herein. In particular, the prior art does not disclose the idea of utilizing reinforcing at the periphery of the base wall of the package to control the propagation of the cut when the package is introduced into the system including knife blades for cutting the bottom wall. Accordingly, independent Claim 39 has been amended to call for that reinforcing feature. In particular, Claim 39 now specifies that at least a portion of the periphery of the base wall is reinforced to control the propagation of the aperture in the package. The aperture is specified in Claim 19 as being created when the package is penetrated by a portion of the system to cut the package and thereby form an aperture therein through which the flowable material within the package can flow out.

Accordingly it is respectfully Claims 41, 42 - 44, 50, 51, 53 and 57 - 59 all depend directly or indirectly on Claim 39 and are patentable for reasons similar thereto.

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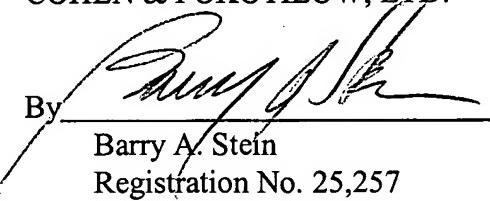
For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested. Upon such action, the undersigned hereby authorizes the examiner to cancel withdrawn Claims 1 - 38 and 60 - 67.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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